GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA

STARRED QUESTION NO:351
ANSWERED ON:19.04.2005
INDO-BRITAIN AGREEMENT ON ILLEGAL IMMIGRATION
Chaudhary Shri Pankaj;Rao Shri Devarakonda Vittal

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether India and Britain have signed any agreement on illegal immigration and repatriation of convicted prisoners;

(b) if so, the details thereof;

(c) the terms and conditions of such agreements;

(d) whether the Government has given any list of illegal immigrants from India to Britain;

(e) if so, the details thereof; and

(f) the action taken by the British Government thereon?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI SRIPRAKASH JAISWAL)

(a)to(f): A statement is laid on the Table of the House.

STATEMENT IN REPLY TO LOK SABHA STARRED QUESTION NO.351 DUE FOR ANSWER ON 19.04.2005.

(a): Yes, Sir.

(b): The MoU, signed between the Government of the Republic of India and the Government of United Kingdom on 30th day of January, 2004, to establish a Pilot Project for one year to serve the basis for the return of Indian Immigrant Offenders from the United Kingdom to India, was renewed for another one year i.e. till 29th January, 2006 with same terms and conditions as in earlier MoU. This was signed on 18th February, 2005. On the same day another agreement between the two countries on the transfer of sentenced persons was also signed.

(c): The terms and conditions of these agreements are as under:

Agreement Terms and Conditions

1) Renewal of the MoU regarding return of Indian Immigrant Offenders from the United Kingdom to India.

To establish a Pilot Project which will serve as the basis for the return of Indian Immigrant Offenders from the United Kingdom to India:

a) UK authorities will provide Indian authorities with personal details of each person to be returned.

b) The Indian authorities will carry out the necessary nationality check and the enquiry will normally be completed within 3 months.

c) The Government of India will, if Indian nationality is verified, authorize the High Commission of India to issue the travel document to facilitate return of such individual.

d) The persons will be returned by way of scheduled flights or an aircraft chartered specifically for this purpose.

e) The UK Government will bear the full cost of travel to India and onward journey to the town/village of the person.

2. Agreement on transfer of sentenced persons.

a) A request for transfer may be made by the convicted prisoners or a person entitled to act on his behalf in view of his age or physical or mental condition.

b) The request for transfer will have to be agreed upon by the Transferring State and the Receiving State.

c) The transfer will be affected if the judgment awarding the sentence is final in India, i.e. no appeal or revision against the judgment is pending in any Court.

d) The transfer will be made if the convicted prisoner is a citizen of the Receiving State not withstanding that he may also be a citizen of any other foreign State.

e) The law of the Receiving State shall govern the enforcement of the sentence. However, the Receiving State shall be bound by the legal nature and duration of the sentence as determined by the Transferring State.

f) The enforcement of sentence in the Receiving State, to the extent that it has been enforced in the Transferring State, shall have the effect of discharging the sentence.

g) The Transferring State alone shall be competent to decide any application for review of the judgment. Either State may grant pardon, amnesty or commutation in accordance with its Constitution or other laws.

h) The convicted prisoner shall not be transferred if:

i) The Transferring State is of the opinion that it would be prejudicial to the sovereignty, security or any other interest of the Transferring State;

ii) There is any other case pending in the Transferring State against the convicted prisoner;

iii) He is convicted of an offence under military law not being an offence under the ordinary criminal law of the Transferring State; and

iv) Death penalty has been awarded to the convicted prisoner in the Transferring State.

(d)&(e): No Sir. Under the MoU on illegal immigrants, the Government of India is not required to provide any list of illegal immigrants from India to Britain. It is the British Government, which is expected to send the list of suspected Indian immigrant offenders to the Government of India for their nationality verification.

(f): Question does not arise.